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OFFICE OF PETITIONS

In re Application of	:	
Peggy Stermer	:	
Application No. 09/965,457	:	ON PETITION
Filed: September 27, 2001	:	
Attorney Docket Number: 2001P16707US	:	

This is a decision on the petition under 37 CFR §1.137(b) filed February 15, 2007. This petition is properly treated as a petition under 1.181 to withdraw the holding of abandonment.¹

The petition filed under 37 CFR 1.181 is **Granted**.

The petition filed under 37 CFR 1.137(b) is **Dismissed as Moot**.

This above-identified application became abandoned for failure to file a response to a non-final Office action mailed on August 18, 2005. The non-final Office action set an extendable three (3) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application was held abandoned on November 19, 2005. A Notice of Abandonment was mailed on August 1, 2007.

¹It is noted that petitioner provided evidence of prior submission of the reply to the August 18, 2005 Office action on September 21, 2006, one month after notification by the examiner that a reply was not received.

Petitioner contends a reply to the final Office action was received in the Office on November 21, 2005. Petitioner states that the reply in the form of an amendment and replacement drawing submitted on November 21, 2005. Petitioner acknowledges that the reply submitted on November 21, 2005 contained an incorrect series code as part of the application number. In support of the petition, petitioner has provided a post card receipt.

The reply has been located in the Office. The reply did contain the correct attorney docket number, filing date, examiner name, applicant name and title of invention. The reply also contained a certificate of mailing pursuant to 37 CFR 1.8.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing application 10/965,457 rather than the correct application No. **09/965,457**. The Office elects, in this instance, to treat applicant's listing of incorrect series code as part of the application number as a correctable minor error as permitted under MPEP 502. However, applicant is reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

The response submitted November 21, 2005 has been located. Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The \$1500.00 petition fee will be refunded to deposit account no.19-2179.

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the present petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

It is noted the address presented on the petition differs from the correspondence address of record. While a courtesy copy of this decision is being mailed to the person

signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

This application is being forwarded to the Art Unit 2616 for further processing of the reply submitted in reply to the August 18, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

A handwritten signature in cursive script, reading "Charlema R. Grant".

Charlema R. Grant

Petition Attorney

Office of Petitions

cc: David D. Chuang
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